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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,416	02/19/2002	Mechthild Rieping	218162US0X	2415
22850	7590	09/16/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			STEADMAN, DAVID J	
			ART UNIT	PAPER NUMBER
			1656	
			NOTIFICATION DATE	DELIVERY MODE
			09/16/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### **37 CFR 1.105 REQUIREMENT FOR INFORMATION**

1. Applicant (or the assignee of this application if the assignee has undertaken the prosecution of the application) is required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.
2. There are numerous other co-pending applications and issued patents, which disclose and claim very similar and/or identical subject matter. In accordance with 37 CFR 1.105 and MPEP 704.11(a) subsection G, applicant (or the assignee) is respectfully requested to disclose all co-pending applications and related patents (please see the non-exhaustive list below of applications and issued patents that the USPTO believes may be related) and identify the specific claims of those applications and/or patents which may present double patenting issues with the instant application claims. This requirement is reasonably necessary to examination because, based on an initial review of the applications, there is a significant degree of overlap in claimed subject matter, thus requiring an analysis of commonality of claimed subject matter to determine patentability under 35 USC 101 double patenting and/or obviousness type double patenting. For example, the method of claim 23 of application 10/076,416 is generic to all that is recited in the method of claim 44 of co-pending application 10/794,417. Put another way, claim 23 of application 10/076,416 is anticipated by claim 44 of co-pending application 10/794,417. Also, the method of claim 23 of application 10/076,416 differs from the method of claim 7 of US Patent 6,596,516 in only the obvious variation of the method steps for producing the L-amino acid and that the bacterial L-amino acid

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production host is a “coryneform bacteria” in the ‘516 patent, rather than an *Escherichia* bacterium as recited in the claims of this application. To use an *Escherichia* bacterium having the same corresponding modification as that of a Coryneform bacterium for production of an L-amino acid would have been an obvious variation because it is well-known in the prior art that *Escherichia* and Coryneform bacteria are used “nearly exclusively” in the production of L-amino acids (Kramer, J. Bacteriol. 45:1-21, 1996, see particularly p. 1, paragraph bridging columns 1-2 and p. 13, column 1, bottom; cited in the PTO-892 filed on 4/20/04) and because *Escherichia* and Coryneform bacteria share essentially the same L-amino acid metabolic pathway steps and enzymes, including pyruvate oxidase, the recited modification would be expected to have the same effect in an *Escherichia* bacterium as it does in a Coryneform bacterium.

3. Because the applicant (or the assignee) is presumably far more cognizant of the contents of the claims in these applications than any Office staff, and has access to the source documents by which such comparison could be done better than within the Office, it is reasonable to require the applicant to provide the information needed to determine the commonality among the claims.

4. Should applicant (or the assignee) believe that Double Patenting exists, then applicant (or the assignee) is invited to file Terminal Disclaimers and/or amend the currently pending claims in the interest of expediting the prosecution of the current application. Applicant (or the assignee) should note that a terminal disclaimer is effective to overcome an obviousness type double patenting rejection, but will not overcome a “same type” double patenting rejection under 35 U.S.C. § 101.

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5. A non-exhaustive list of possible related co-pending applications and patents:

10/794,417	6,759,224	6,942,996
10/483,413	6,812,006	6,958,228
10/812,315	6,812,016	6,995,000
11/350,043	6,890,744	6,995,002
7,319,026	6,913,908	7,037,689
6,596,516	6,921,651	7,038,034
6,734,002	6,939,692	7,067,288
6,759,218	6,939,695	7,078,502

6. This requirement is subject to the provisions of 37 CFR 1.134, 1.135 and 1.136 and has a shortened statutory period of 2 months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Steadman whose telephone number is (571) 272-0942. The examiner can normally be reached on Mon. - Fri., 7:30 a.m.-4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr Bragdon can be reached on (571) 272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571 (273) 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/David J. Steadman/  
Primary Examiner, Art Unit 1656

/Remy Yucel/  
Director, Technology Center 1600